Supreme Court, U.S.
FILED

96 197 JUL 9 1996

OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

October Term, 1995

Colonel DONALD I. REHMAN (Ret.),

Petitioner,

v.

GARWOOD, MCKENNA, MCKENNA, and WOLF, P.A., An Orlando, FL Law Firm, ALLEN J. MCKENNA, Esquire, THOMAS C. GARWOOD JR., Esquire & THEODORE R. BAUMGARDNER, Esquire,

Respondent.

On Petition For Writ Of Certiorari To The Supreme Court Of Florida

PETITION FOR WRIT OF CERTIORARI

COLONEL DONALD I. REHMAN (Ret.)
1390 Windy Ridge Court
Longwood, FL 32750-4501
(407) 260-0690
Petitioner Pro Se

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

49 pp

QUESTIONS PRESENTED

1. Whether citizens of the United States are in effect constitutionally deprived of adequate due process appellate rights, when a State Appellate Court merely "per curiam affirms" State Trial Court actions that were the result of, or alleged to be for the Defendants the "fruits of" a deprivation of Plaintiff Federal Constitutional rights, which in the record can plainly be seen as having occurred at State Trial Court level; when such an appellate "per curiam affirmed" order automatically eliminates any appeal to the Supreme Court of that State because that Court has established State Case Law which gives such effect to lower tribunal "per curiam affirmed" orders.

2. Whether citizens of The United States of America, who conduct their own civil cases personally as pro se, automatically forfeit in State Courts entitlement to equal protection under the law, to due process, and to any beneficial application of "on-point" controlling precedent Federal and State case law, as a consequence of not being represented by counsel.

3. Whether Florida citizens who have civil cases in Florida State Courts have any entitlement to protection under the "Supremacy Clause" of the United States Constitution Article VI, such that Florida State Courts are required to recognize, adhere to, and abide by, the tolling provision for State Statutes of Limitations which is mandated by 28 U.S.C. § 1367(d).

QUESTIONS PRESENTED – Continued

4. Whether a plaintiff's case in a Florida State Trial Court can automatically be dismissed upon a defendants' Motion to Dismiss supposedly based upon Florida State Statute of Limitations, but that Court intentionally not considering the plaintiff's timely filed objection which asserts that the provisions of 28 U.S.C. § 1367(d) tolled the Florida State Statute of Limitations.

5. Whether it is the "settled" Supreme Law of the State of Florida that any defense of Collateral Estoppel invoked by a defendant in a Florida civil tort case to attempt to dismiss it, requires that the Collateral Estoppel subject matter **and** the party/parties in a prior litigation must have been identical to that in the litigation where Collateral Estoppel is invoked; and, whether, if a Florida Trial Court ignores such Florida State law on Collateral Estoppel, it unconstitutionally deprives a plaintiff of equal treatment under the law and/or results in an unconstitutional denial of due process.

6. Whether a Florida State Trial Court in a defamation case pending before it, upon which the Presiding Judge had already ordered trial, can, when a Successor Judge takes over the case, ignore the existing "law of the case" by taking Judicial Notice, over the timely filed objections of the plaintiff, of a disputed matter between other parties which is then on appeal from a Federal Trial Court to a Federal Appellate Court, to which Defendants in that State Court are not and never were a party, then use such Judicial Notice of a disputed matter on Federal appeal to invoke State Trial Court collateral estoppel and dismiss the State defamation case; and whether such Judicial

QUESTIONS PRESENTED – Continued

Notice of disputed facts action by the State Court constitutes an unconstitutional denial of due process to the plaintiff by that State Court and an unconstitutional deprivation of equal treatment under Federal and State case law which permits Judicial Notice only of "settled matters".

7. Whether, when a Federal Trial Court denies its leave to permit a plaintiff to file a supplemental jurisdiction State defamation claim, thereby declining to exercise jurisdiction over such a State defamation claim even though it is related to a 31 U.S.C. § 3730(h) claim over which the court has exercised original Federal jurisdiction, does the defamation claim still retain an identification as a Supplemental Jurisdiction claim such that the tolling provisions of 28 U.S.C. 1367(d) will apply if it is then timely filed in a State Court.

8. Whether additional parties who are identified as additional defendants in a timely filed defamation claim as it is filed in State Court, after a Federal Trial Court refused to exercise jurisdiction over it as a Federal Court supplemental jurisdiction claim, can be dismissed as Defendants at the State Court because they were not named as Defendants while the defamation claim was being pursued at the Federal Court; and whether such dismissal imposes an unconstitutional denial of due process upon the plaintiff.

9. Whether there is a Constitutional guarantee to due process which entitles litigants, in any Federal and State Court, to have their cases heard by presiding judges who

QUESTIONS PRESENTED – Continued

are unbiased and who possess the attributes of a qualified and capable Judge; and whether there is a nullification of due process and/or nullification of other Constitutional guarantees under the following circumstances:

> The judge whom a pro se's case is in progress before, is convicted of a criminal offense in a public trial by jury, resulting in enormous pretrial and post-trial unfavorable publicity to the judge, and adverse public reaction against the judge; and whether this results in the judge losing some or all of the judicial attributes which are guaranteed to litigants under due process, thereby mandating there be judicial disqualification from the pro se's case.

LIST OF ALL PARTIES

All parties appear in the caption of the case on the cover page.

TABLE OF CONTENTS

Page

OPINIONS BELOW 1

JURISDICTION 1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 1

STATEMENT OF THE CASE 3

REASONS FOR GRANTING THE PETITION 8

CONCLUSION 10

INDEX TO APPENDICES

Appendix A Decision of State Court of Appeals A1

Appendix B Decisions of State Trial Court B1

Appendix C Decision of State Supreme Court Denying Review C1

Appendix D Order of State Supreme Court Denying Rehearing (Reinstatement) D1

Appendix E Biographical Sketch E1

Appendix F Flowchart of Occurrences F1

Appendix G Federal Magistrate Judge's Report and Recommendation G1

Appendix H Federal Court Order Adopting Report and Recommendation H1

Appendix I Order for Federal Trial I1

TABLE OF CONTENTS – Continued

Page

Appendix J State Trial Court Order Denying Defendants' Motion for Summary Judgment J1

Appendix K State Trial Court Order for Trial in Defamation Case K1

Appendix L State Trial Court Successor Judge's Conviction of Criminal Offense L1

TABLE OF AUTHORITIES

Page

Case Law

Bruce Watson and Joyce Watson v. Truman Hahn, Case 95-201, decided Dec. 8, 1995, 5 DCA Fla. 7

Milkovich v. Lorain Journal Company, Case 89-645, decided June 21, 1990, U.S. Supreme Court 8

Rosenblatt v. Baer, 383 U.S. 75 (1966) 8

Silver v. Levinson, 20 Fla. L. Weekly D119, 4DCA Fla. Case 94-1092, Dec. 28, 1994 6

The Florida Bar v. Peter Charles Clement, Fla.Sup.Ct. Case 82,097 decided Nov. 2, 1995 6

Federal Statute

28 U.S.C. § 1257(a) 1

28 U.S.C. § 1367 2

28 U.S.C. § 1367(d) 2, 6

31 U.S.C. § 3730(h) 3

United States Constitution

Amendment 14, Section 1 2

Amendment 9 1

Article VI (2) 6

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at **Appendix A** to the petition and is unpublished.

The opinion of the State Trial Court appears at **Appendix B** to the petition and is unpublished.

JURISDICTION

The date on which the highest state court decided my case was April 18, 1996. A copy of that decision appears at **Appendix C.**

A timely petition for rehearing (reinstatement) was thereafter denied on the following date: June 10, 1996, and a copy of the order denying rehearing (reinstatement) appears at **Appendix D.**

The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Amendment 9:

> [T]he enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.[1]

[1] Rehman has a good faith belief that due process rights are retained by the people.

United States Constitution, Amendment 14, Section 1:

> . . . . [N]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.[2]

28 U.S.C. §1367(d):

> [T]he period of limitations for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.[3]

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[2] Rehman has a good faith belief that under this provision of the Constitution, State Courts cannot discriminate against pro se persons nor deny to them the application of favorable controlling precedent case law. Further, State Courts cannot apply State Statute of Limitations to a case that is governed by Federal Law; in particular by 28 U.S.C. §1367(d).

[3] The Court is respectfully requested to note that in the decision of the State Trial Court at Appendix B hereto, in dismissing the defamation claim against Defendants Baumgardner and Garwood the Trial Court declares: [T]he Court makes no determination as to whether Plaintiff's prior federal court action was a "supplemental action" as that term is referred to in 28 U.S.C. Section 1367. (Then the Court goes on to dismiss the claim because supposedly the State Statutes of Limitations expired; without applying 28 U.S.C. §1367(d), when it clearly tolled the State Statute of Limitations and was timely asserted by Rehman during Trial court proceedings.)

STATEMENT OF THE CASE

In 1989, Rehman, whose Biographical Sketch is contained at **Appendix E** hereto, became an employee of ECC International Corp. (hereinafter "ECC"), a Defense Contractor having its main facility in Orlando, Florida. RESPONDENTS in this Petition are the Attorneys for that Employer.

Shortly after commencing his ECC employment, Rehman detected defense contract fraud in the ECC workplace. The adverse events that then occurred to Rehman, are summarized in the one page flowchart contained at **Appendix F** hereto. Rehman, after being fired by ECC in 1990, for engaging in "protected activity" under 31 U.S.C. §3730(h), and for repeatedly refusing to participate in that defense contract fraud, filed a lawsuit for wrongful termination of employment in Federal Court. ECC appealed the denial of summary judgment to the Eleventh Federal Circuit Court of Appeals, the United States Government (Department of Justice) entered the case as Amicus Curiae in support of Rehman's position, and the ECC appeal was subsequently dismissed. During more than six (6) years of Federal Court litigation on Rehman's lawsuit, the RESPONDENTS in this Petition, who are attorneys for ECC, filed ten (10) equivalent Motions for Summary Judgment.[4] Their last Motion for Summary Judgment resulted in the Federal Magistrate Judge's Report and Recommendation contained at **Appendix G** hereto, the Presiding Federal Judge's Order adopting it, contained at **Appendix H** hereto, and the Federal trial

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[4] Some were disguised as Motions in Limine.

remains set for January 1997 per the Order contained at **Appendix I** hereto.

During discovery in the Federal lawsuit, ECC refused to furnish names and addresses of certain former employees, but on a Motion to Compel filed by Rehman, the Federal Court so ordered. Just before furnishing the Court ordered names and addresses to Rehman, the RESPONDENTS here wrote and sent letters to the 108 persons, portraying Rehman in such a vile manner so as to create revulsion towards him and to make vile assertions relating to his reputation, principles, and character. Additionally, RESPONDENTS here knowingly sanctioned the creation and delivery of a false and defamatory document to the United States Government, intended to intentionally adversely portray Rehman as having supposedly been fired from ECC for misconduct, when no such event had ever occurred, for the purpose of discrediting and defaming Rehman. Rehman attempted to bring a Defamation claim against RESPONDENTS in Federal Court; however, it declined to exercise jurisdiction.[5]

Ultimately, Rehman timely filed a Defamation lawsuit in State Court. The presiding Judge denied RESPONDENTS' Motion for Summary Judgment, copy of Order at **Appendix J** hereto, and trial on Rehman's Defamation Claim was scheduled, copy of Order at **Appendix K** hereto. Immediately thereafter, a State Circuit Court Judge, who had been arrested for a criminal offense and

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[5] The details of all that occurred at the Federal Court on the Defamation subject matter are lengthy, and will be fully described and documented in a Brief on the Merits if this Court grants Rehman's Petition for Writ of Certiorari.

was pending trial in that matter was taken out of the Circuit's Domestic Court, transferred to Civil Division and assigned to Rehman's Defamation Case. That Judge was convicted in a public trial by jury, see document at **Appendix L** hereto, and almost immediately thereafter all Rehman's litigation in State Court began to rapidly deteriorate (retaliation by the Judge, against Rehman who was pro se, for the Judge's criminal conviction by jury of citizens like Rehman) whereby the convicted judge disregarded all that had gone before and Rehman's Defamation Case went from "scheduled for trial" to a "thrown out of Court" status as reflected in the Trial Court's decisions at **Appendix B** hereto. In so doing, the Trial Court caused Rehman to be denied due process, caused him not to be given equal treatment under the law, and deprived him of beneficial controlling precedent case law.[6]

Upon appeal of the matter to the District Court of Appeal of the State of Florida for the Fifth District (5DCA), although Rehman timely raised the constitutional due process, equal treatment under the law, controlling precedent case law, and disqualification of the Judge issues, all were disregarded completely in a simple "per curiam affirmed" order from that Appellate Court. Effectively that blocked any entitlement by Rehman to review of the matter at The Supreme Court of Florida. This raises a perplexing situation of whether a Citizen of

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[6] The details of all that occurred at the State Court on the Defamation subject matter are lengthy, and will be fully described and documented in a Brief on the Merits if this Court grants Rehman's Petition for Writ of Certiorari.

the United States is in effect constitutionally deprived of due process when a State Appellate Court refuses to address a deprivation of Federal Constitutional rights which by the record it can plainly see occurred at a State Trial Court, and was timely asserted there by Petitioner.

a. Both the Trial Court (9th Circuit Court) and the 5th District Court of Appeal have refused to recognize and apply the tolling of Florida State Statutes provisions of 28 U.S.C. §1367(d); thereby causing to Rehman a deprivation of his fundamental due process rights, which violates the Supremacy of Federal Laws mandated by Article VI (2) [*Supremacy of the National Government*] of the United States Constitution.

b. Both the Trial Court and the 5th District Court of Appeal have refused to recognize, adhere to, and apply "on point" Case Law, of **The Florida Supreme Court,** on the subject of **Collateral Estoppel,** such as is promulgated in:

Supreme Court of Florida Case No. 82,097 *The Florida Bar v. Peter Charles Clement* decided November 2, 1995 in which The Florida Supreme Court has ruled that, in the State of Florida, Collateral Estoppel **cannot exist unless the parties and subject matter are identical.**

c. Both the Trial Court and the 5th District Court of Appeal have refused to recognize, and apply "on point" Case Law, of *Silver v. Levinson*, 20 Fla. L. Weekly D119, 4 DCA, Case No. 94-1092, 28 Dec 94; in which 4DCA is believed to be the first and only State Appellate Court to declare that lawyers, even when acting for or on behalf of their clients, do not have any privilege against defamation when not in a judicial forum.

d. Both the Trial Court and the 5th District Court of Appeal have refused to recognize, and apply, **The Florida Supreme Court** standards for granting Summary Judgment, in that there must be no genuine issue as to any material fact and the moving party entitled to judgment as a matter of law; despite the fact that "the law of this case", as pronounced by The Honorable W. Rogers Turner, Trial Court Judge, ruled that there were genuine issues of material fact, Defendants were not entitled to Summary Judgment, and Judge Turner scheduled trial. Further, 5DCA refused to apply its own case law on Summary Judgment to wit:

> ***FIFTH DISTRICT COURT OF APPEAL, 5DCA CASE 95-201, BRUCE WATSON AND JOYCE WATSON v. TRUMAN HAHN, DECIDED ON DECEMBER 8, 1995, IN WHICH 5DCA SET FORTH SOME SPECIFIC REQUIREMENTS IN ORDER FOR A SUMMARY JUDGMENT TO BE UPHELD ON APPEAL; AND 5DCA SAID THAT THE RECORD MUST CLEARLY SHOW THAT THERE IS NO QUESTION OF MATERIAL FACT, AND THAT THE APPELLEE IS ENTITLED TO JUDGMENT AS A MATTER OF LAW.***

Rehman did not receive **equal treatment under the law** and was **denied constitutional due process,** by The Trial Court Successor Judge granting Summary Judgment without ever addressing any matter pertaining to the existence or nonexistence of genuine issues of material fact, and 5DCA affirming Summary Judgment knowing there are genuine issues of material fact; when "THE LAW OF THE CASE" clearly had been established and declared by the Predecessor Trial Court Judge, that there were genuine issues of material fact which necessitated

trial by jury; and that judgment was never vacated by the Successor Judge and all matters related to genuine issues of material fact were ignored by the Successor Judge; all to the constitutional due process detriment of Rehman.

REASONS FOR GRANTING THE PETITION

Whistleblowers throughout the United States in the private sector, who serve the public good and in the public's interest by courageously reporting/exposing defense contract fraud in the workplace, being committed by their employers against the Government of the United States of America, will by employer retaliation when it is perpetrated by and through their attorneys, have their professional careers destroyed and their personal and professional reputations decimated, with no recourse in the courts because certain courts have given attorneys inappropriate privilege against defamation even when perpetrated in non-judicial forums.

In *Rosenblatt v. Baer*, 383 U.S. 75, 86 (1966)[7] Associate Supreme Court Justice, The Honorable Potter Stewart, wrote:

> [B]ut there is also another side to the equation; we have regularly acknowledged the "important social values which underlie the law of defamation," and recognize that "[s]ociety has a pervasive and strong interest in preventing and redressing attacks upon reputation."

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[7] Reiterated in *Milkovich v. Lorain Journal Company*, U.S. Supreme Court Case 89-645, June 21, 1990.

"The right of a man to the protection of his own reputation from unjustified invasion and wrongful hurt reflects no more than our basic concept of the essential dignity and worth of every human being – a concept at the root of any decent system of ordered liberty.

"The destruction that defamatory falsehood can bring is, to be sure, often beyond the capacity of the law to redeem. Yet, imperfect though it is, an action for damages is the only hope for vindication or redress the law gives to a man whose reputation has been falsely dishonored." Id., at 92-93.

Although United States Citizens have the Constitutional Right to represent themselves as pro se in any Court throughout the entire United States of America, when they choose to do so in an honorable and competent fashion, they thereby may be intentionally made to unconstitutionally suffer loss of due process, loss of equal protection under the law, and loss of the benefit of all favorable controlling precedent case law; all inflicted upon them solely by virtue of their choosing to be unrepresented by counsel.

This case represents such an outrageous occurrence of injustice, and raises such oppressive circumstances, that it cries out for the judgment from this Court. The potential for daily recurrence of "unconstitutional harm" to other citizenry of the United States, such as happened in this case, gives rise to the essentiality of this Honorable Court granting this Petition, so that it may advance the

cause of justice throughout this Land, wherever there now exists a need for such judicial eloquence.

CONCLUSION

The petition for a writ of certiorari should be granted.

WHEREFORE, PETITIONER Rehman respectfully requests this Court to grant this Petition.

Respectfully submitted,

DONALD I. REHMAN
1390 Windy Ridge Court
Longwood, FL 32750
(407) 260-0690
Petitioner Pro Se

APPENDIX A

IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA

FIFTH DISTRICT — JANUARY TERM 1996

DONALD I. REHMAN

Appellant.

v.

GARWOOD McKENNA & McKENNA. P.A., etc., et al.,

Appellees.

_____/

NOT FINAL UNTIL THE TIME EXPIRES TO FILE REHEARING MOTION, AND, IF FILED, DISPOSED OF.

CASE NO. 95-1086

Decision Filed February 20, 1996

Appeal from the Circuit Court
for Orange County.
Linda A. Gloeckner, Judge.

Donald I. Rehman. Longwood.
pro se.

John E. Dubose, Jr., of Woolfolk, Estes, Keough & Dubose, P.A., Orlando, for Appellees.

PER CURIAM.

AFFIRMED.

PETERSON, C.J., DAUKSCH and COBB, J.J., concur.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FIFTH DISTRICT

DONALD I. REHMAN,
Appellant,

v.

CASE NO. 95-1086

GARWOOD, MCKENNA & MCKENNA, P.A., etc., et al.,
Appellee.

_____/

DATE: April 2, 1996

BY ORDER OF THE COURT:

ORDERED that Appellant's MOTION FOR REHEARING, and Appellant's MOTION FOR EN BANC REHEARING, filed March 1, 1996, are denied.

(SEAL)

I hereby certify that the foregoing is (a true copy of) the original court order.

/s/ Frank J. Habershaw
FRANK J. HABERSHAW, CLERK
BY: _____
Deputy Clerk
(COURT SEAL)

cc: Donald I. Rehman
John E. Dubose, Jr., Esq.

APPENDIX B

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT, IN AND FOR ORANGE COUNTY, FLORIDA

CASE NO.: CI 94-3776

DONALD I. REHMAN,

Plaintiff,

vs.

GARWOOD, McKENNA & McKENNA, P.A., ALLEN J. McKENNA, THOMAS C. GARWOOD, JR, and THEODORE R. BAUMGARDNER,

Defendants.

_____/

ORDER GRANTING DEFENDANTS ALLEN J. McKENNA AND GARWOOD, McKENNA & McKENNA, P.A.'S MOTION FOR SUMMARY JUDGMENT AND ENTERING SUMMARY FINAL JUDGMENT

THIS CAUSE having come before the Court on March 16, 1995 on the Motion for Summary Judgment of Defendants, ALLEN J. McKENNA and GARWOOD, McKENNA & McKENNA, P.A., and the Court, having heard argument of Plaintiff and of Defendants' counsel, having reviewed the Court file, and otherwise being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED:

1. The Court finds that Plaintiff's action is barred by the applicable statute of limitations, *Florida Statutes* Section 95.11(4)(g). Plaintiff's 1992 action filed in the United States District Court for the Middle District of Florida

was not a "supplemental action" as that term is defined in 28 U.S.C. Section 1367 and, consequently, the tolling provision of said statute does not apply to the instant action. Because the above-captioned case was filed in this Court after the expiration of the statute of limitations, Plaintiff's action against these Defendants is time barred.

2. The Court also finds that the Order of the United States District Court for the Middle District of Florida entered on May 17, 1993 in Plaintiff's action filed in that Court, Case Number 90-425-CIV-ORL-22, collaterally estops Plaintiff from relitigating the issue of the alleged defamatory nature of the 108 letters referred to in Plaintiff's Amended Complaint. The District Court determined they were not and Plaintiff is estopped from relitigating that issue in this Court.

3. Summary Final Judgment, therefore, is entered in favor of Defendants, ALLEN J. McKENNA and GARWOOD, McKENNA & McKENNA, P.A., and against Plaintiff, DONALD I. REHMAN, and Defendants, ALLEN J. McKENNA and GARWOOD, McKENNA & McKENNA, P.A., shall go hence without day. Costs will be taxed upon appropriate Motion and hearing.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida this _____ of March, 1995.

Original Signed Apr. 20, 1995
LINDA A. GLOECKNER,
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail Delivery to **JOHN E. DUBOSE, JR., ESQUIRE,** Post Office Drawer 3751, Orlando, Florida 32802 and to **DONALD I. REHMAN, PRO SE,** 1390 Windy Ridge Court, Longwood, Florida 32750 this _____ day of March, 1995.

_____

JUDICIAL ASSISTANT

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT,
IN AND FOR ORANGE COUNTY,
FLORIDA

CASE NO.: CI 94-3776

DONALD I. REHMAN,

Plaintiff,

vs.

GARWOOD, McKENNA & McKENNA, P.A.,
ALLEN J. McKENNA, THOMAS C. GARWOOD, JR,
and THEODORE R. BAUMGARDNER,

Defendants.

_____/

ORDER GRANTING DEFENDANTS THEODORE R. BAUMGARDNER AND THOMAS C. GARWOOD, JR.'S MOTION FOR SUMMARY JUDGMENT AND ENTERING SUMMARY FINAL JUDGMENT

THIS CAUSE having come before the Court on March 9, 1995 on Defendants THEODORE R. BAUMGARDNER and THOMAS C. GARWOOD, JR.'s Motion for Summary Judgment and the Court, having heard argument of Plaintiff and of Defendants' counsel, having reviewed the Court file, and otherwise being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED:

1. The Court makes no determination as to whether Plaintiff's prior federal court action was a "supplemental action" as that term is referred to in 28 U.S.C. Section 1367. Defendants, THEODORE R. BAUMGARDNER and THOMAS C. GARWOOD, JR., have never been named as

Defendants in any of Plaintiff's federal court actions and were not named as parties in the above-captioned action in this Court until September 16, 1994. Clearly the statute of limitations applicable to this action for defamation, *Florida Statutes* section 95.11(4)(g), expired prior to the filing of Plaintiff's Amended Complaint on September 16, 1994 and such an amendment does not relate back to the filing of any previously filed Complaints. *See Frankowitz v. Propst*, 489 So. 2d 51 (Fla. 4th D.C.A. 1986); *Gray v. Executive Drywall, Inc.*, 520 So. 2d 619 (Fla. 2d D.C.A. 1988); and *R.A. Jones & Sons, Inc. v. Holman*, 470 So. 2d 60 (Fla. 3d D.C.A. 1985).

2. Summary Final Judgment, therefore, is entered in favor of Defendants, THEODORE R. BAUMGARDNER and THOMAS C. GARWOOD, JR., and against Plaintiff, DONALD I. REHMAN, and Defendants, THEODORE R. BAUMGARDNER and THOMAS C. GARWOOD, JR., shall go hence without day. Costs will be taxed upon appropriate Motion and hearing.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida this _____ of March, 1995.

Original Signed April 20, 1995
LINDA A. GLOECKNER,
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail Delivery to **JOHN E. DUBOSE, JR., ESQUIRE,** Post Office Drawer 3751, Orlando, Florida 32802 and to **DONALD I. REHMAN, PRO SE,** 1390 Windy Ridge Court, Longwood, Florida 32750 this _____ day of March, 1995.

_____

JUDICIAL ASSISTANT

APPENDIX C

SID J. WHITE, CLERK
SUPREME COURT OF FLORIDA
500 SOUTH DUVALL STREET
TALLAHASSE 32399-1927
(904) 488-0125

Mr. Donald I. Rehman
1390 Windy Ridge Court
Longwood, Florida 32750

4/18/96 filed 4/15/96

DONALD I. REHMAN
V.
GARWOOD, MCKENNA,
& MCKENNA,
P.A., ETC., ET AL.

CASE NO. 87,744
DCA-5 NO. 95-1086

I have this date received the below-listed pleadings or documents:

Notice of Appeal.

Your Petition for Writ of Certiorari has been treated as a Petition for Review

$250.00 Filing Fee, receipt no. R-960546.

Please made reference to the case number in all correspondence and pleadings.

Most cordially,
/s/ Sid J. White
Clerk, Supreme Court

ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

SJW/bh
cc: Hon. Frank J. Habershaw, Clerk
Mr. John E. DuBose, Jr.

SUPREME COURT OF FLORIDA

THURSDAY, APRIL 18, 1996

DONALD I. REHMAN, Petitioner/Appellant, vs. GARWOOD, MCKENNA & MCKENNA, P.A., ETC., ET AL., Respondents/Appellees.	*	CASE NO. 87,744 District Court of Appeal, 5th District – No. 95 - 1086

The Supreme Court of Florida does not have common law certiorari jurisdiction. Art. § 3, Fla. Const. The "Petition for Common Law Certiorari will, therefore, be treated as a petition for discretionary review and/or appeal. *See* Fla. R. App. P. 9.040(c).

Because no jurisdictional basis has been alleged to support the petition for discretionary review of the appeal, this case is hereby dismissed.

The appeal is subject to reinstatement if jurisdiction is established on proper motion filed within fifteen days from the date of this order. *See* Art. V, § 3(b)(1), Fla. Const.

No motion for rehearing or for clarification may be filed in the Court addressed to the denial of the petition for discretionary review. *See* Fla. R. App. P. 3.330(d).

See Vetrick v. Hollander, 464 So.2d 552.

A True Copy

TEST:

Sid J. White
Clerk Supreme Court
By: /s/ (Illegible)
Deputy Clerk
[SEAL]

H

cc: Hon. Frank J. Habershaw, Clerk
Hon. Fran Carlton, Clerk
Hon. Linda A. Gloeckner, Judge

Mr. Donald I. Rehman
Mr. John E. DuBose, Jr.

APPENDIX D

SID J. WHITE, CLERK
SUPREME COURT OF FLORIDA
500 SOUTH DUVAL STREET
Tallahassee 32399-1927
(904) 488-0125

DONALD I. REHMAN 4/22/96 filed 4-19-96
1390 WINDY RIDGE COURT
LONGWOOD, FLORIDA 32750

DONALD I. REHMAN
VS
GARWOOD, MCKENNA
& MCKENNA,
P.A., ETC., ET AL.

CASE NO. 87,744

I have this date received the below-listed pleadings or documents:

PETITIONER'S JURISDICTIONAL BRIEF HAS BEEN TREATED AS A MOTION FOR REINSTATEMENT.

PETITIONER'S BRIEF AND APPENDIX ORIG & 5

Please make reference to the case number in all correspondence and pleadings.

Most cordially,

/s/ Signature

Clerk, Supreme Court

ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

SJW/BDM
cc: MR. JOHN E. DuBOSE, JR.

SUPREME COURT OF FLORIDA

MONDAY, JUNE 10, 1996

DONALD I. REHMAN, Appellant, v. GARWOOD, McKENNA & McKENNA, P.A., etc., et al., Appellees.	*	CASE NO. 87,744 District Court of Appeal, 5th District – No. 95-1086

Appellant's Motion for Reinstatement filed in the above cause is hereby denied.

OVERTON, SHAW, HARDING, WELLS and ANSTEAD, JJ., concur

A True Copy

TEST: (SEAL)

By /s/ T Carrsee
Deputy Clerk

Sid J. White
Clerk, Supreme Court

TC

cc: Hon. Frank J. Habershaw, Clerk
Hon. Fran Carlton, Clerk
Hon. Linda A. Gloeckner, Judge
Mr. Donald I. Rehman
Mr. John E. DuBose, Jr.

APPENDIX E

BIOGRAPHICAL SKETCH – DONALD I. REHMAN

Don Rehman is a Certified Professional Logistician (C.P.L.) with an MBA degree, a Master of Science degree in Logistics Management, and a Bachelor of Science degree in Military Science. He has over 30 years experience in the field of Logistics Management, and he has attended numerous technical courses related to his logistics career field.

As a teenager, Don Rehman commenced a military career, starting as a Private. Serving for more than 26 years, his military career was devoted almost exclusively to logistics. He received successive promotions reaching the grade of full Colonel, and worked in logistics assignments at operational levels, commodity command, major field command, and the Pentagon. He achieved Logistician certification from the cognizant Pentagon agency, in addition to earning his C.P.L. certification.

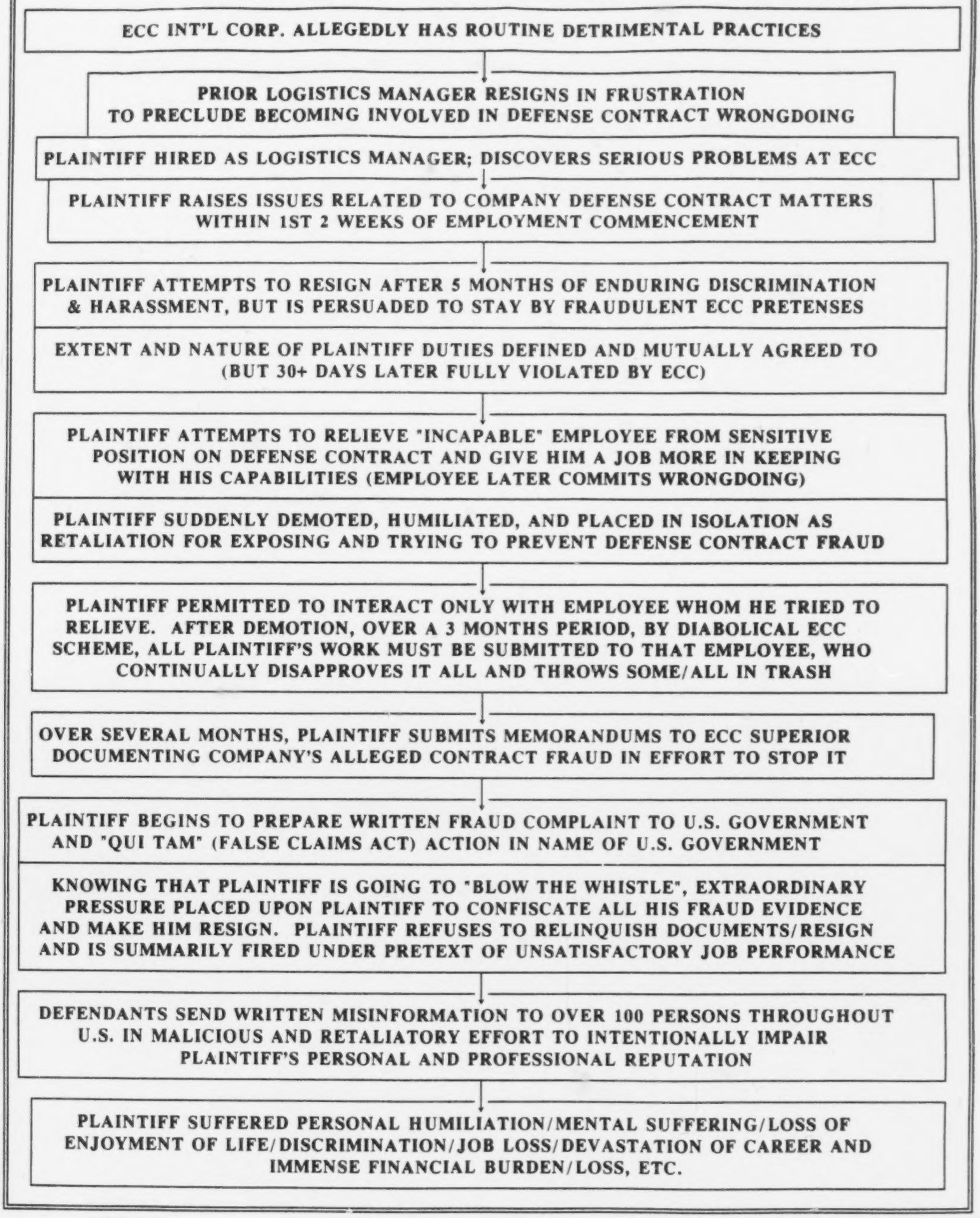
Subsequent to his military service, Don Rehman commenced a second career in industry where he worked for numerous years. He has been employed by E-Systems as Manager International Marketing & Logistics, Manager Division Profit Planning, and Manager Review & Analysis Group (Logistics). Subsequent to E-Systems employment, Don attended the University of South Florida (Tampa) on a full time basis to earn his second master's degree, an MBA. Upon graduation he joined Sanders Associates as Integrated Logistics Support (ILS) Program Manager. Later he became Manager of Logistics for Codex Corporation. In 1987 Don Rehman established Rehman Consulting Services Company, specializing in

Logistics Management, and relocated from New England to the Orlando Area. An exceptional position opportunity with a Defense Contractor in May 1989, caused him to accept employment with that Company. He subsequently was assigned as the Staff Assistant (for Logistics) to the Vice President Engineering.

Don Rehman has been married for over 42 years to his wife Marian, whom he met at his first duty station after graduating from Officer Candidate School (OCS) and becoming a second lieutenant. They have two children. Their son Doug is a graduate of the University of South Florida with a B.S. in Criminal Justice, is married, 2 children, and is employed with the Florida Department of Law Enforcement (FDLE). Their daughter Linda is a graduate of the Medical College of Georgia with a B.S. in Dental Hygiene, and is following in her mother's footsteps by having married a second lieutenant, who over the years advanced in grade, and is now a Lieutenant Colonel. She has 2 children and works full time in her medical specialty.

Don's hobbies are electronics, computer, and auto mechanics. He served over a year as Director/President of the Northridge Pointe Homeowners' Association, is now its Director/Secretary, and he recently completed several years of service as a member of the Seminole County Sheriff's Civilian Review Board.

FLOWCHART OF: CIVIL ACTION #: 90-425-CIV-ORL-22


ECC INT'L CORP. ALLEGEDLY HAS ROUTINE DETRIMENTAL PRACTICES
PRIOR LOGISTICS MANAGER RESIGNS IN FRUSTRATION TO PRECLUDE BECOMING INVOLVED IN DEFENSE CONTRACT WRONGDOING
PLAINTIFF HIRED AS LOGISTICS MANAGER; DISCOVERS SERIOUS PROBLEMS AT ECC
PLAINTIFF RAISES ISSUES RELATED TO COMPANY DEFENSE CONTRACT MATTERS WITHIN 1ST 2 WEEKS OF EMPLOYMENT COMMENCEMENT
PLAINTIFF ATTEMPTS TO RESIGN AFTER 5 MONTHS OF ENDURING DISCRIMINATION & HARASSMENT, BUT IS PERSUADED TO STAY BY FRAUDULENT ECC PRETENSES
EXTENT AND NATURE OF PLAINTIFF DUTIES DEFINED AND MUTUALLY AGREED TO (BUT 30+ DAYS LATER FULLY VIOLATED BY ECC)
PLAINTIFF ATTEMPTS TO RELIEVE "INCAPABLE" EMPLOYEE FROM SENSITIVE POSITION ON DEFENSE CONTRACT AND GIVE HIM A JOB MORE IN KEEPING WITH HIS CAPABILITIES (EMPLOYEE LATER COMMITS WRONGDOING)
PLAINTIFF SUDDENLY DEMOTED, HUMILIATED, AND PLACED IN ISOLATION AS RETALIATION FOR EXPOSING AND TRYING TO PREVENT DEFENSE CONTRACT FRAUD
PLAINTIFF PERMITTED TO INTERACT ONLY WITH EMPLOYEE WHOM HE TRIED TO RELIEVE. AFTER DEMOTION, OVER A 3 MONTHS PERIOD, BY DIABOLICAL ECC SCHEME, ALL PLAINTIFF'S WORK MUST BE SUBMITTED TO THAT EMPLOYEE, WHO CONTINUALLY DISAPPROVES IT ALL AND THROWS SOME/ALL IN TRASH
OVER SEVERAL MONTHS, PLAINTIFF SUBMITS MEMORANDUMS TO ECC SUPERIOR DOCUMENTING COMPANY'S ALLEGED CONTRACT FRAUD IN EFFORT TO STOP IT
PLAINTIFF BEGINS TO PREPARE WRITTEN FRAUD COMPLAINT TO U.S. GOVERNMENT AND "QUI TAM" (FALSE CLAIMS ACT) ACTION IN NAME OF U.S. GOVERNMENT
KNOWING THAT PLAINTIFF IS GOING TO "BLOW THE WHISTLE", EXTRAORDINARY PRESSURE PLACED UPON PLAINTIFF TO CONFISCATE ALL HIS FRAUD EVIDENCE AND MAKE HIM RESIGN. PLAINTIFF REFUSES TO RELINQUISH DOCUMENTS/RESIGN AND IS SUMMARILY FIRED UNDER PRETEXT OF UNSATISFACTORY JOB PERFORMANCE
DEFENDANTS SEND WRITTEN MISINFORMATION TO OVER 100 PERSONS THROUGHOUT U.S. IN MALICIOUS AND RETALIATORY EFFORT TO INTENTIONALLY IMPAIR PLAINTIFF'S PERSONAL AND PROFESSIONAL REPUTATION
PLAINTIFF SUFFERED PERSONAL HUMILIATION/MENTAL SUFFERING/LOSS OF ENJOYMENT OF LIFE/DISCRIMINATION/JOB LOSS/DEVASTATION OF CAREER AND IMMENSE FINANCIAL BURDEN/LOSS, ETC.

APPENDIX G

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DONALD I. REHMAN,

Plaintiff,

-vs-

ECC INTERNATIONAL CORP.,

Defendant.

Case No.
90-425-Civ-Orl-22

REPORT AND RECOMMENDATION

(Filed Jun. 5, 1996)

TO THE UNITED STATES DISTRICT COURT

Defendant ECC International Corporation's (herein "ECC") motion for summary judgment (Doc. No. 607) has been referred to the undersigned United States Magistrate Judge for preparation of a Report and Recommendation as to appropriate disposition.

A party is entitled to judgment as a matter of law when the party can show that there is no genuine issue as to any material fact. Fed. R. Civ. Pro. 56(c). The substantive law applicable to the case determines which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed. 2d 202 (1986). Summary judgment is mandated "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case and on which that party will bear the burden of proof." *Celotex Corp. v. Catrett*, 477 U.S. 317,

322 (1986). As the Plaintiff bears the burden of proving his claim, the Defendant is not required to negate it, but may support its Rule 56 motion by "showing – that is, pointing out to the district court – that there is an absence of evidence to support the non-moving party's case." *Celotex*, 477 U.S. at 325; *Fitzpatrick v. City of Atlanta*, 2 F.3d 1112 (11th Cir. 1993). In undertaking this analysis, it is appropriate to construe the *pro se* complaint more liberally than the Court would the complaint of a represented party. *Harris v. Ostrout*, 65 F.3d 912 (11th Cir. 1995).

In its motion, ECC reiterates its earlier arguments pertaining to the two remaining claims in the case, a claim for two weeks of severance pay and a claim pursuant to 31 U.S.C. § 3730(h). *See Report and Recommendation dated March 4, 1993 (Doc. No. 497); and this Court's adoption of same (Doc. No. 532).* Although additional case law has developed since the Court denied ECC's previous motion for summary judgment on the False Claims action, the new case law does not change the facts particular to this case. Because there remain genuine issues of material fact with respect to whether Plaintiff engaged in conduct protected by § 3730(h), whether ECC was aware of such conduct and the significance of the conduct in ECC's decision to terminate Plaintiff, summary judgment is just as inappropriate now as it was three years ago. *See Field v. F & B Manufacturing, Co.*, 1996 WL 238917 (N.D. Ill. May 6, 1996) (summary judgment is inappropriate when a reasonable jury could conclude that claimant had reasonable cause for suspicion and inquiry into company's potentially fraudulent conduct, even if no actual fraud existed.)

With respect to the severance pay claim, as this Court stated previously entitlement to and the amount of severance pay cannot ordinarily be determined summarily.[1] The conflicting testimony and authorities compel denial of summary judgment on this claim.

Therefore, the undersigned respectfully recommends that ECC's motion be **DENIED** and the case remain on the trial calendar.

Failure to file written objections to the proposed findings and recommendations contained in this report within ten (10) days from the date of its filing shall bar an aggrieved party from attacking the factual findings on appeal.

Respectfully recommended in Orlando, Florida on June 5, 1996.

/s/ David A. Baker
DAVID A. BAKER
UNITED STATES
MAGISTRATE JUDGE

Copies furnished to:

Donald I. Rehman
Allen J. McKenna
Theodore R. Baumgardner

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[1] Interestingly, in defending against Plaintiff's motion for summary judgment on this claim three years ago, ECC argued that, at the very least, factual issues exist as to Plaintiff's entitlement to be paid beyond the actual period of his employment. The Court agrees.

APPENDIX H

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DONALD I. REHMAN,

Plaintiff

-vs- CASE NO. 90-425-CIV-ORL-22

ECC INTERNATIONAL CORP.,,

Defendant

_____/

ORDER

This cause comes before the Court on Defendant ECC International Corporation's (herein "ECC") motion for summary judgment (Dkt. 607). The United States Magistrate Judge has submitted a report recommending that the Motion be denied. No opposition to the report has been timely filed.

After an independent *de novo* review of the entire record in this matter, the Court agrees entirely with the findings of fact and conclusions of law in the Report and Recommendation (Dkt. 635).

Based on the foregoing, it is ordered as follows

1. The Report and Recommendation filed June 5, 1996 (Dkt. 635), is ADOPTED and CONFIRMED and made part of this Order.

2. The Motion for summary judgment (Dkt. 607) is denied.

DONE AND ORDERED in Chambers, Orlando, Florida, this 27th day of June, 1996.

/s/ Anne C. Conway
ANNE C. CONWAY
United States
District Judge

Copies to: Counsel of Record

APPENDIX I

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DONALD I. REHMAN,

Plaintiff

-vs- CASE NO. 90-425-CIV-ORL-22

ECC INTERNATIONAL CORPORATION,

Defendant

_____/

ORDER

(Filed Jan. 4, 1996)

Plaintiff's **Renewed Motion to Set Cause for Trial (Dkt. 622)**, filed December 19, 1995, is GRANTED. This jury trial is scheduled for the trial term commencing **January 2, 1997.**

DONE AND ORDERED in Chambers in Orlando, Florida, this 4th day of January , 1996.

/s/ Anne C. Conway
ANNE C. CONWAY
United States
District Judge

Copies to: Donald I. Rehman, *pro se*
Counsel of Record

APPENDIX J

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN
AND FOR ORANGE COUNTY, FLORIDA

CASE NO.: CI 94-3776

DONALD I. REHMAN,

Plaintiff,

vs.

GARWOOD, McKENNA &
McKENNA, P.A., ALLEN J.
McKENNA, THOMAS C.
GARWOOD, JR, and
THEODORE R.
BAUMGARDNER,

Defendants.

_____/

ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

(Filed Nov. 3, 1994)

THIS CAUSE having come before the Court on October 31, 1994 on Defendants' Motion for Summary Judgment and the Court, having heard argument of Plaintiff and of Defendants' counsel, having reviewed the Court file, and otherwise being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED:

That Defendants' Motion for Summary Judgment is denied.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida this 2d of November, 1994.

[SEAL]

/s/ W. Rogers Turner
W. ROGERS TURNER,
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail Delivery to **JOHN E. DUBOSE, JR., ESQUIRE,** Post Office Drawer 3751, Orlando, Florida 32802 and to **DONALD I. REHMAN, PRO SE,** 1390 Windy Ridge Court, Longwood, Florida 32750 this 2 day of November, 1994.

/s/ Jan Cavone
JUDICIAL ASSISTANT

APPENDIX K

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO. CI 94-3776

DONALD I. REHMAN,

Plaintiff,

vs.

GARWOOD, McKENNA &
McKENNA, P.A., et al.,

Defendant.

_____/

ORDER SETTING JURY TRIAL

(Filed Dec. 2, 1994)

ESTIMATED LENGTH OF TRIAL PER NOTICE:3 DAYS

THIS ACTION being at issue, it is set for trial with a jury during the period beginning MAY 23, 1995 at 9:30 a.m.

Mediation shall be scheduled by Plaintiff's counsel with a mediator who is mutually agreeable to all parties. The time for mediation shall be coordinated with opposing counsel and an Order prepared and submitted to the undersigned Judge with appropriate copies and stamped envelopes for mailing. A copy of said Order is attached to Plaintiff's copy.

At least five days prior to trial, counsel shall furnish the trial Judge and serve a copy thereof on opposing counsel the following:

1. A list by name and address of the witnesses to be used at the trial.

2. A memorandum of any law upon which counsel intends to rely, with citations.

3. Copies of any ordinances and a schedule of any statutes upon which counsel intends to rely at trial.

4. Instructions, in writing, on letter size paper, double-spaced and numbered consecutively, which the Court will be requested to give during trial. The written requested instructions will make reference to Standard Jury Instructions approved by the Florida Supreme Court from which taken. In the event special instructions are requested, the citation of the Florida Supreme Court or other court's Opinion upon which it is based will be shown.

5. Forms of verdict.

6. An accurate estimate of the time required for trial.

Jurors may not be questioned by counsel concerning anticipated instructions or theories of law. Any such questions which counsel desire to have asked of prospective jurors shall be submitted to the Court in writing at least five (5) days prior to trial, with a copy served on opposing counsel, and will be asked by the Court, if deemed proper.

In accordance with the Americans With Disabilities Act, persons with disabilities needing a special accommodation to participate in this proceeding should contact Court Administration at 37 N. Orange Avenue, Suite 1130, Orlando, FL 32801, Telephone: (407) 836-2303 not

later than seven days prior to the proceeding. If hearing impaired, (TDD) 1-800-955-8771, or Voice (V) 1-800-955-8770, via Florida Relay Service.

Unless modified by the court to prevent manifest injustice, upon application timely made, this Order shall govern the further conduct of the cause.

DONE and ORDERED this 30th day of Nov., 1994.

/s/ W. Rogers Turner
W. ROGERS TURNER,
CIRCUIT JUDGE

I HEREBY CERTIFY that a true copy of the foregoing Order has been furnished by mail to: DONALD REHMAN, 1390 WINDY RIDGE CT., LONGWOOD, FLA., 32750; JOHN DUBOSE, ESQ., P. O. DRAWER 3751, ORLANDO, FLA., 32802 this 30th day of Nov., 1994.

/s/ Jan Cavone
JUDICIAL ASSISTANT
TO ABOVE JUDGE

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT, IN AND FOR ORANGE COUNTY, FLORIDA

DONALD I. REHAMN, Plaintiff, vs. GARWOOD, MCKENNA & MCKENNA, P.A., et al, Defendants,	Case No. CI 94-3776

ORDER DISPENSING WITH MEDIATION

THIS CAUSE having come on to be heard on Plaintiff's & Defendants' Joint Motion to Dispense With Mediation, and the Court being fully advised in the premises herein, it is hereby ORDERED AND ADJUDGED:

The Motion to Dispense With Mediation is hereby:

GRANTED

DONE AND ORDERED in Chambers, Orange County Courthouse, Orlando, Florida, this 8 day of December, 1994.

/s/ W. Rogers Turner
W. ROGERS TURNER,
CIRCUIT JUDGE

I HEREBY CERTIFY that a true copy of the foregoing Order has been furnished by mail, this 8 day of Dec., 1994 to:

Mr. Donald I. Rehman
1390 Windy Ridge Court
Longwood, FL 32750
PLAINTIFF Pro Se

John E. DuBose Jr., Esquire
WOOLFOLK, ESTES, KEOUGH & DUBOSE, P.A.
315 East Robinson Street,
Suite 555
Orlando, Florida 32802-3751
ATTORNEYS FOR DEFENDANTS

/s/ Muriel M. Johns
JUDICIAL ASSISTANT
TO ABOVE JUDGE

The Orlando Sentinel

SUNDAY, January 22, 1995

Expelled students are more likely to commit serious crimes, a state study shows, B-3

Local & state

TOM SPITZ/THE ORLANDO SENTINEL

Orange Circuit Judge Linda Gloeckner prepares to wipe her fingers after prints are taken Saturday. She was found guilty of drunken driving.

Judge convicted of drunken driving

By Debbie Salamone

OF THE SENTINEL STAFF

An Orange County judge who rammed her Volvo into the rear of a BMW two years ago was found guilty Saturday of drunken driving.

Circuit Judge Linda Gloeckner was sentenced to serve a year of probation, pay $750 in fines and drive only on business for the next six months.

Her five-day trial in Orlando ended after less than two hours of jury deliberations. Gloeckner, who shook her head after hearing the verdict, declined to comment.

Seminole County prosecutors Eilam Isaak and Jack Kaleita faced an uphill fight after Seminole County Judge Fredric Hitt prohibited them from telling jurors that Gloeckner's blood-alcohol content had been measured at 0.17 percent. Florida's legal limit at the time of Gloeckner's arrest in January 1993 was 0.10 percent.

Defense attorneys Stuart Hyman and Mark NeJame, who had questioned the reliability of the breath test, attacked the credibility of prosecution witnesses throughout the trial. Two alternate jurors — released from duty before jury deliberations — said they would have found the judge not guilty.

Hyman said appeals are likely, and he will ask for a new trial.

"Considering the outcome, it just proves there is a justice system that we have to have faith in. And it proves nobody is above the law," said John

Please see **JUDGE, B-5**

Judge must attend defensive driving school, victims program

JUDGE from B-1

Evans, a victim advocate for Mothers Against Drunk Driving who spoke for the women involved the car accident.

As part of her sentence, Gloeckner, 45, must attend defensive-driving school and a victim awareness program. Hitt withheld a formal ruling of guilt on a careless driving citation. Gloeckner interjected that she had completed a drunken driving course that also is part of her sentence. She said counselors determined she had no alcohol problem.

Gloeckner's car struck the BMW at a traffic light at Wymore and Lee roads. The BMW slammed into a vehicle in front of it. The judge refused to take all but one field sobriety test, saying blindness in one eye would have affected her ability to perform successfully.

Prosecutors, however, showed a video of Gloeckner during her arrest and called some of her answers slurred. They also had testimony from accident victims and a state trooper who said Gloeckner showed signs of intoxication, including smelling of alcohol.

Their key witness, a waitress, produced a restaurant receipt and testified that she served Gloeckner eight 2-ounce straight vodka drinks within two hours at the Maitland restaurant where the judge joined several other women for a birthday party.

But a surprise defense witness — the restaurant owner — testified that the waitress had been known to alter drink and meal tickets to pocket extra money. The receipt brought by the waitress appeared to have some inconsistencies, the defense attorneys argued.

In addition, the lawyers tried to discredit the accident victims, pointing out that a verdict against the judge would help their civil lawsuit against her. They also argued that the women at the party saw Gloeckner drink only two drinks and that she seemed fine upon leaving.

They showed a video of Gloeckner buying food in a convenience store minutes after the accident to prove she walked without staggering or swaying. Several lawyers who saw Gloeckner after the accident testified that she did not appear drunk, and her ophthalmologist testified she had trouble with depth perception that might cause her to stumble.

Gloeckner, who handles civil matters such as contract disputes, already has been reprimanded by the Florida Supreme Court.